

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CRIMINAL NO. 3:05CR92

UNITED STATES OF AMERICA)

v.)

MARK S. COX)

And)

CAROL ANN COX,)

Third-Party Petitioner.)

ORDER

THIS MATTER is before the Court on the Government's request for entry of the Amended Preliminary Order of Forfeiture.

In the Memorandum and Order filed May 23, 2006, the Court found that Petitioner was a bona fide purchaser for value in regards to the property the Government sought to obtain by forfeiture and the Petitioner was, therefore, entitled to the protections of 21 U.S.C. § 853(c). The Court also stayed the provisions of the Order "for a period of 60 days . . . in order to allow the Government to file an appeal of this ruling if it wishes to do so."

Memorandum and Order, filed May 23, 2006. The Government did appeal the Court's ruling; by consent of the parties, Court extended the

stay for an additional 90 days by Order filed July 19, 2006. According to the proposed Amended Preliminary Order of Forfeiture, the Government has elected not to pursue its appeal. Since receipt of the Government's proposed order, the Court has received notification that the Government's appeal has been dismissed by the Fourth Circuit. **See Mandate, filed October 12, 2006.** Therefore, the stay previously ordered herein may now be lifted.

IT IS, THEREFORE, ORDERED that the stay previously ordered herein is **CANCELLED AND LIFTED**, as of the date of entry of this Order.

IT IS FURTHER ORDERED that Petitioner's Third Party Petition Opposing Forfeiture is **GRANTED**, and the Preliminary Order of Forfeiture, entered April 11, 2005, shall be appropriately amended to reflect Petitioner's superior right to the sum of \$812,000 formerly located in a BB&T Account ending in the number 6828 and seized from such account by the United States Marshals Service pursuant to the Preliminary Order of Forfeiture.

IT IS FURTHER ORDERED that the sum of \$812,000, plus interest thereon from date of seizure until paid in full, shall be refunded by the United States Marshal's Service to Petitioner forthwith.

IT IS FURTHER ORDERED that upon payment of the funds to the Petitioner, the United States Marshal shall file proof of such payment.

The Court will withhold entry of the Amended Preliminary Order of Forfeiture until proof of payment is filed by the United States Marshal.

Signed: October 25, 2006

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

